

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0345P

**Sales and Use Tax
June 1997 and July 1997**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer at hearing protests the penalty assessed for sales tax not timely remitted and returns not timely filed. The department issued BIA billings, which were cancelled upon the taxpayer filing the returns. After the application of payment on May 27, 1998, the Department issued, on June 3, 1998, the AR-80 liabilities for the late filing of those returns by EFT.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting trust tax due timely.

Taxpayer requests the department waive its late filing penalties as it has over the past twenty years paid taxes per the state's requirements. In addition, the employee responsible for filing the returns resigned without notice during the peak season.

The department issued its BIA billings on April 21, 1998 because the taxpayer failed to respond to a delinquency notice. Upon filing its EFT with interest, the Department cancelled the BIA billings that contained a twenty percent (20%) penalty and replaced those billings with a ten percent (10%) late filing

04980345P.LOF

PAGE #2

penalty.

The taxpayer's protest is denied as it did not respond to delinquency notices issued and the department reduced the twenty percent (20%) penalty to ten percent (10%) for the late filing. In addition, the taxpayer has a history of filing returns late.

FINDING

Taxpayer's protest is denied.